

Calendar No. 416

107TH CONGRESS
2^D SESSION**S. 1956**

To combat terrorism and defend the Nation against terrorist attacks, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2002

Mr. KOHL (for himself, Mr. HATCH, Mr. SCHUMER, and Ms. CANTWELL) in-
troduced the following bill; which was read twice and referred to the Com-
mittee on the Judiciary

JUNE 13, 2002

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To combat terrorism and defend the Nation against terrorist
attacks, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE**

4 This Act may be referred to as the “Safe Explosives
5 Act”.

1 **SEC. 2. PERMITS FOR PURCHASERS OF EXPLOSIVES.**

2 (a) DEFINITIONS.—Section 841(j) of title 18, United
3 States Code, is amended to read as follows:

4 “(j) ‘Permittee’ means any user of explosives for a
5 lawful purpose, who has obtained either a user permit or
6 a limited permit under the provisions of this chapter.”.

7 (b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Sec-
8 tion 842 of title 18, United States Code, is amended—

9 (1) in subsection (a)(2), by striking “and” at
10 the end;

11 (2) by striking subsection (a)(3) and inserting
12 the following:

13 “(3) other than a licensee or permittee
14 knowingly—

15 “(A) to transport, ship, cause to be trans-
16 ported, or receive any explosive materials; or

17 “(B) to distribute explosive materials to
18 any person other than a licensee or permittee;
19 or

20 “(4) who is a holder of a limited permit—

21 “(A) to transport, ship, cause to be trans-
22 ported, or receive in interstate or foreign com-
23 merce any explosive materials; or

24 “(B) to receive explosive materials from a
25 licensee or permittee, whose premises are lo-
26 cated within the State of residence of the lim-

1 ited permit holder, on more than 6 separate oc-
 2 asions, pursuant to regulations implemented
 3 by the Secretary.”;

4 ~~(3)~~ by striking subsection (b) and inserting the
 5 following:

6 “(b) It shall be unlawful for any licensee or permittee
 7 knowingly to distribute any explosive materials to any per-
 8 son other than—

9 ~~“(1) a licensee;~~

10 ~~“(2) a holder of a user permit; or~~

11 ~~“(3) a holder of a limited permit who is a resi-~~
 12 ~~dent of the State where distribution is made and in~~
 13 ~~which the premises of the transferor are located.”;~~
 14 and

15 ~~(4) in the first sentence of subsection (f), by in-~~
 16 ~~serting “, other than a holder of a limited permit,”~~
 17 ~~after “permittee”.~~

18 (c) LICENSES AND USER PERMITS.—Section 843(a)
 19 of title 18, United States Code, is amended—

20 (1) by inserting “or limited permit” after “user
 21 permit” in the first sentence;

22 (2) by inserting before the period at the end of
 23 the first sentence the following: “, including the
 24 names of and appropriate identifying information re-
 25 garding all employees who will handle explosive ma-

terials, as well as fingerprints and a photograph of the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association)”; and

(3) by striking the third sentence and inserting “Each license or user permit shall be valid for no longer than 3 years from the date of issuance and each limited permit shall be valid for no longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit and upon payment of a renewal fee not to exceed one-half of the original fee.”.

(d) CRITERIA FOR APPROVING LICENSES AND PERMITS.—Section 843(b) of title 18, United States Code, is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end; and

(3) by adding at the end the following:

“(6) none of the employees of the applicant who will possess explosive materials in the course of their

1 employment with the applicant is a person whose
 2 possession of explosives would be unlawful under
 3 section 842(i) of this chapter; and

4 “(7) in the case of a limited permit, the appli-
 5 cant has certified in writing that the applicant will
 6 not receive explosive materials on more than 6 sepa-
 7 rate occasions during the 12-month period for which
 8 the limited permit is valid.”.

9 (c) INSPECTION AUTHORITY.—Section 843(f) of title
 10 18, United States Code, is amended—

11 (1) in the first sentence—

12 (A) by striking “permittees” and inserting
 13 “holders of user permits”; and

14 (B) by inserting “licensees and permittees”
 15 before the words “shall submit”; and

16 (2) in the second sentence, by striking “per-
 17 mittee” the first time it appears and inserting “hold-
 18 er of a user permit”.

19 (f) POSTING OF PERMITS.—Section 843(g) of title
 20 18, United States Code, is amended by inserting “user”
 21 before “permits”.

22 (g) EFFECTIVE DATE.—The amendments made by
 23 this section shall take effect 180 days after the date of
 24 enactment of this Act.

1 **SEC. 3. PERSONS PROHIBITED FROM RECEIVING OR POS-**
 2 **SESSING EXPLOSIVE MATERIALS.**

3 (a) DISTRIBUTION OF EXPLOSIVES.—Section 842(d)
 4 of title 18, United States Code, is amended—

5 (1) in paragraph (5), by striking “or” at the
 6 end;

7 (2) in paragraph (6), by striking the period at
 8 the end and inserting “or who has been committed
 9 to a mental institution;” and

10 (3) by adding at the end the following:

11 “(7) is an alien, other than an alien who is law-
 12 fully admitted for permanent residence (as defined
 13 in section 101 (a)(20) of the Immigration and Na-
 14 tionality Act) or an alien described in subsection
 15 (q)(2);

16 “(8) has been discharged from the armed forces
 17 under dishonorable conditions; or

18 “(9) having been a citizen of the United States,
 19 has renounced the citizenship of that person.”.

20 (b) POSSESSION OF EXPLOSIVE MATERIALS.—Sec-
 21 tion 842(i) of title 18, United States Code, is amended—

22 (1) in paragraph (3), by striking “or” at the
 23 end; and

24 (2) by inserting after paragraph (4) the fol-
 25 lowing:

1 ~~“(5) who is an alien, other than an alien who~~
 2 ~~is lawfully admitted for permanent residence (as~~
 3 ~~that term is defined in section 101(a)(20) of the Im-~~
 4 ~~migration and Nationality Act) or an alien described~~
 5 ~~in subsection (q)(2);~~

6 ~~“(6) who has been discharged from the armed~~
 7 ~~forces under dishonorable conditions; or~~

8 ~~“(7) who, having been a citizen of the United~~
 9 ~~States, has renounced the citizenship of that per-~~
 10 ~~son.”.~~

11 ~~(e) DEFINITION.—Section 842 of title 18, United~~
 12 ~~States Code, is amended by adding at the end the fol-~~
 13 ~~lowing:~~

14 ~~“(q) PROVISIONS RELATING TO LEGAL ALIENS.—~~

15 ~~“(1) DEFINITION.—In this subsection, the term~~
 16 ~~‘alien’ has the same meaning as in section 101(a)(3)~~
 17 ~~of the Immigration and Nationality Act (8 U.S.C.~~
 18 ~~1101(a)(3)).~~

19 ~~“(2) EXCEPTIONS.—Subsections (d)(7) and~~
 20 ~~(i)(5) do not apply to any alien who—~~

21 ~~“(A) is in lawful nonimmigrant status, is a~~
 22 ~~refugee admitted under section 207 of the Im-~~
 23 ~~migration and Nationality Act (8 U.S.C. 1157),~~
 24 ~~or is in asylum status under section 208 of the~~

1 Immigration and Nationality Act (8 U.S.C.
2 1158);

3 “(B) is a foreign law enforcement officer
4 of a friendly foreign government entering the
5 United States on official law enforcement busi-
6 ness;

7 “(C) is a person having the authority to di-
8 rect or cause the direction of the management
9 and policies of a corporation, partnership, or
10 association licensed pursuant to section 843(a);
11 and the shipping, transporting, possessing, or
12 receiving of explosive materials relates to that
13 authority; or

14 “(D) is a member of a North Atlantic
15 Treaty Organization (NATO) or other friendly
16 foreign military force (whether or not admitted
17 in a nonimmigrant status) who is present in the
18 United States under military orders for training
19 or other authorized purpose; and the shipping,
20 transporting, possessing, or receiving explosive
21 materials is in furtherance of the military pur-
22 pose.”.

23 “(3) WAIVER.—

24 “(A) CONDITIONS FOR WAIVER.—Any indi-
25 vidual who has been admitted to the United

1 States under a nonimmigrant visa may receive
2 a waiver from the requirements of subsection
3 ~~(i)(5)~~ if—

4 “(i) the individual submits to the At-
5 torney General a petition that meets the
6 requirements of subparagraph ~~(C)~~; and

7 “(ii) the Attorney General approves
8 the petition.

9 “(B) PETITION.—Each petition submitted
10 in accordance with subparagraph ~~(A)~~ shall—

11 “(i) demonstrate that the petitioner
12 has resided in the United States for a con-
13 tinuous period of not less than 180 days
14 before the date on which the petition is
15 submitted under this paragraph; and

16 “(ii) include a written statement from
17 the embassy or consulate of the petitioner,
18 authorizing the petitioner to acquire explo-
19 sives and certifying that the alien would
20 not, absent the application of subsection
21 ~~(i)(5)~~, otherwise be prohibited from such
22 an acquisition under subsection ~~(i)~~.

23 “(C) APPROVAL OF PETITION.—The Attor-
24 ney General shall approve a petition submitted
25 in accordance with this paragraph if the Attor-

ney General determines that waiving the requirements of subsection (i)(5) with respect to the petitioner—

“(i) would be in the interests of justice; and

“(ii) would not jeopardize the public safety.”.

SEC. 4. REQUIREMENT TO PROVIDE SAMPLES OF EXPLOSIVE MATERIALS AND AMMONIUM NITRATE.

Section 843 of title 18, United States Code, is amended by adding at the end the following:

“(h) FURNISHING OF SAMPLES.—

“(1) IN GENERAL.—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

“(A) samples of such explosive materials or ammonium nitrate;

“(B) information on chemical composition of those products; and

“(C) any other information that the Secretary determines is relevant to the identification and classification of the explosive materials or to identification of the ammonium nitrate.

1 ~~“(2) REIMBURSEMENT.—The Secretary may,~~
 2 ~~by regulation, authorize reimbursement of the fair~~
 3 ~~market value of samples furnished pursuant to this~~
 4 ~~subsection, as well as the reasonable costs of ship-~~
 5 ~~ment.”.~~

6 **SEC. 5. DESTRUCTION OF PROPERTY OF INSTITUTIONS RE-**
 7 **CEIVING FEDERAL FINANCIAL ASSISTANCE.**

8 Section 844(f)(1) of title 18, United States Code, is
 9 amended by inserting before the word “shall” the fol-
 10 lowing: “or any institution or organization receiving Fed-
 11 eral financial assistance,”.

12 **SEC. 6. RELIEF FROM DISABILITIES.**

13 Section 845(b) of title 18, United States Code, is
 14 amended to read as follows:

15 ~~“(b) RELIEF FROM DISABILITIES.—~~

16 ~~“(1) IN GENERAL.—A person who is prohibited~~
 17 ~~from possessing, shipping, transporting, receiving~~
 18 ~~purchasing, importing, manufacturing, or dealing in~~
 19 ~~explosive materials may make application to the Sec-~~
 20 ~~retary for relief from the disabilities imposed by~~
 21 ~~Federal law with respect to the acquisition, receipt,~~
 22 ~~transfer, shipment, transportation, or possession of~~
 23 ~~explosive materials, and the Secretary may grant~~
 24 ~~that relief, if it is established to the satisfaction of~~
 25 ~~the Secretary that—~~

1 “(A) the circumstances regarding the dis-
2 ability, and the record and reputation of the ap-
3 plicant are such that the applicant will not be
4 likely to act in a manner dangerous to public
5 safety; and

6 “(B) that the granting of the relief will not
7 be contrary to the public interest.

8 “(2) PETITION FOR JUDICIAL REVIEW.—Any
9 person whose application for relief from disabilities
10 under this section is denied by the Secretary may
11 file a petition with the United States district court
12 for the district in which that person resides for a ju-
13 dicial review of the denial.

14 “(3) ADDITIONAL EVIDENCE.—The court may,
15 in its discretion, admit additional evidence where
16 failure to do so would result in a miscarriage of jus-
17 tice.

18 “(4) FURTHER OPERATIONS.—A licensee or
19 permittee who conducts operations under this chap-
20 ter and makes application for relief from the disabil-
21 ities under this chapter, shall not be barred by that
22 disability from further operations under the license
23 or permit of that person pending final action on an
24 application for relief filed pursuant to this section.

1 ~~“(5) NOTICE.—Whenever the Secretary grants~~
 2 ~~relief to any person pursuant to this section, the~~
 3 ~~Secretary shall promptly publish in the Federal Reg-~~
 4 ~~ister, notice of that action, together with reasons for~~
 5 ~~that action.”.~~

6 **SEC. 7. THEFT REPORTING REQUIREMENT.**

7 Section 842 of title 18, United States Code, as
 8 amended by this Act, is amended by adding at the end
 9 the following:

10 ~~“(r) THEFT REPORTING REQUIREMENT.—~~

11 ~~“(1) IN GENERAL.—A holder of a limited user~~
 12 ~~permit who knows that explosive materials have been~~
 13 ~~stolen from that user, shall report the theft to the~~
 14 ~~Secretary not later than 24 hours after the discovery~~
 15 ~~of the theft.~~

16 ~~“(2) PENALTY.—A holder of a limited user per-~~
 17 ~~mit who does not report a theft in accordance with~~
 18 ~~paragraph (1), shall be fined not more than~~
 19 ~~\$10,000, imprisoned not more than 5 years, or~~
 20 ~~both.”.~~

21 **SEC. 8. APPLICABILITY.**

22 Nothing in this Act shall be construed to affect the
 23 exception in section 845(a)(4) (relating to small arms am-
 24 munition and components of small arms ammunition) or
 25 section 845(a)(5) (relating to commercially manufactured

1 black powder in quantities not to exceed 50 pounds in-
 2 tended to be used solely for sporting, recreational, or cul-
 3 tural purposes in antique firearms) of title 18, United
 4 States Code.

5 **SECTION 1. SHORT TITLE.**

6 *This Act may be referred to as the “Safe Explosives*
 7 *Act”.*

8 **SEC. 2. PERMITS FOR PURCHASERS OF EXPLOSIVES.**

9 (a) *DEFINITIONS.*—Section 841 of title 18, United
 10 States Code, is amended—

11 (1) *by striking subsection (j) and inserting the*
 12 *following:*

13 “(j) ‘Permittee’ means any user of explosives for
 14 a lawful purpose, who has obtained either a user per-
 15 mit or a limited permit under the provisions of this
 16 chapter.”; and

17 (2) *by adding at the end the following:*

18 “(r) ‘Alien’ means any person who is not a cit-
 19 izen or national of the United States.

20 “(s) ‘Intimate partner’ means, with respect to a
 21 person, the spouse of the person, a former spouse of
 22 the person, an individual who is a parent of a child
 23 of the person, and an individual who cohabits or has
 24 cohabited with the person.

1 “(t)(1) *Except as provided in paragraph (2),*
 2 *‘misdemeanor crime of domestic violence’ means an*
 3 *offense that—*

4 “(A) *is a misdemeanor under Federal or*
 5 *State law; and*

6 “(B) *has, as an element, the use or at-*
 7 *tempted use of physical force, or the threatened*
 8 *use of a deadly weapon, committed by a current*
 9 *or former spouse, parent, or guardian of the vic-*
 10 *tim, by a person with whom the victim shares a*
 11 *child in common, by a person who is cohabiting*
 12 *with or has cohabited with the victim as a*
 13 *spouse, parent, or guardian, or by a person*
 14 *similarly situated to a spouse, parent, or guard-*
 15 *ian of the victim.*

16 “(2) *A person shall not be considered to have*
 17 *been convicted of such an offense for purposes of this*
 18 *chapter, unless—*

19 “(A) *the person was represented by counsel*
 20 *in the case, or knowingly and intelligently*
 21 *waived the right to counsel in the case; and*

22 “(B) *in the case of a prosecution for an of-*
 23 *fense described in this subsection for which a*
 24 *person was entitled to a jury trial in the juris-*
 25 *diction in which the case was tried, either—*

1 “(i) the case was tried by a jury; or

2 “(ii) the person knowingly and intel-
3 ligently waived the right to have the case
4 tried by a jury, by guilty plea or otherwise.

5 “(u) ‘Responsible person’ means an individual
6 who has the power to direct the management and
7 policies of the applicant pertaining to explosive mate-
8 rials.”.

9 (b) *PERMITS FOR PURCHASE OF EXPLOSIVES*.—Sec-
10 tion 842 of title 18, United States Code, is amended—

11 (1) in subsection (a)(2), by striking “and” at the
12 end;

13 (2) by striking subsection (a)(3) and inserting
14 the following:

15 “(3) other than a licensee or permittee
16 knowingly—

17 “(A) to transport, ship, cause to be trans-
18 ported, or receive any explosive materials; or

19 “(B) to distribute explosive materials to
20 any person other than a licensee or permittee; or

21 “(4) who is a holder of a limited permit—

22 “(A) to transport, ship, cause to be trans-
23 ported, or receive in interstate or foreign com-
24 merce any explosive materials; or

1 “(B) to receive explosive materials from a
 2 licensee or permittee, whose premises are located
 3 outside the State of residence of the limited per-
 4 mit holder, or on more than 6 separate occasions,
 5 during the period of the permit, to receive explo-
 6 sive materials from 1 or more licensees or per-
 7 mittees whose premises are located within the
 8 State of residence of the limited permit holder.”;
 9 and

10 (3) by striking subsection (b) and inserting the
 11 following:

12 “(b) It shall be unlawful for any licensee or permittee
 13 knowingly to distribute any explosive materials to any per-
 14 son other than—

15 “(1) a licensee;

16 “(2) a holder of a user permit; or

17 “(3) a holder of a limited permit who is a resi-
 18 dent of the State where distribution is made and in
 19 which the premises of the transferor are located.”.

20 (c) *LICENSES AND USER PERMITS*.—Section 843(a) of
 21 title 18, United States Code, is amended—

22 (1) by inserting “or limited permit” after “user
 23 permit” in the first sentence;

24 (2) by inserting before the period at the end of
 25 the first sentence the following: “, including the names

1 of and appropriate identifying information regarding
 2 all employees who will be authorized by the applicant
 3 to possess explosive materials, as well as fingerprints
 4 and a photograph of each responsible person”; and

5 (3) by striking the third sentence and inserting
 6 “Each license or user permit shall be valid for no
 7 longer than 3 years from the date of issuance and
 8 each limited permit shall be valid for no longer than
 9 1 year from the date of issuance. Each license or per-
 10 mit shall be renewable upon the same conditions and
 11 subject to the same restrictions as the original license
 12 or permit, and upon payment of a renewal fee not
 13 to exceed one-half of the original fee.”.

14 (d) *CRITERIA FOR APPROVING LICENSES AND PER-*
 15 *MITs.*—Section 843(b) of title 18, United States Code, is
 16 *amended—*

17 (1) in paragraph (4), by striking “and” at the
 18 end;

19 (2) in paragraph (5), by striking the period at
 20 the end; and

21 (3) by adding at the end the following:

22 “(6) none of the employees of the applicant who
 23 will be authorized by the applicant to possess explo-
 24 sive materials is a person whose possession of explo-
 25 sives would be unlawful under section 842(i); and

1 “(7) in the case of a limited permit, the appli-
 2 cant has certified in writing that the applicant will
 3 not receive explosive materials on more than 6 sepa-
 4 rate occasions during the 12-month period for which
 5 the limited permit is valid.”.

6 (e) *APPLICATION APPROVAL*.—Section 843(c) of title
 7 18, United States Code, is amended by striking “forty-five
 8 days” and inserting “45 days for limited permits and 90
 9 days for licenses and user permits,”.

10 (f) *INSPECTION AUTHORITY*.—Section 843(f) of title
 11 18, United States Code, is amended in the second sentence,
 12 by striking “permittee” the first time it appears and insert-
 13 ing “holder of a user permit”.

14 (g) *POSTING OF PERMITS*.—Section 843(g) of title 18,
 15 United States Code, is amended by inserting “user” before
 16 “permits”.

17 (h) *BACKGROUND CHECKS; CLEARANCES*.—Section
 18 843 of title 18, United States Code, is amended by adding
 19 at the end the following:

20 “(h)(1) If the Secretary receives from an employer the
 21 name and other identifying information with respect to a
 22 responsible person or an employee who will be authorized
 23 by the employer to possess explosive materials in the course
 24 of employment with the employer, the Secretary shall deter-
 25 mine whether possession of explosives by the responsible per-

1 son or the employee, as the case may be, would be unlawful
 2 under section 842(i). In making the determination, the Sec-
 3 retary may take into account a letter or document issued
 4 under paragraph (2).

5 “(2)(A) If the Secretary determines that possession of
 6 explosives by the responsible person or the employee would
 7 not be unlawful under section 842(i), the Secretary shall
 8 notify the employer in writing or electronically of the deter-
 9 mination and issue to the responsible person or the em-
 10 ployee, as the case may be, a letter of clearance which con-
 11 firms the determination.

12 “(B) If the Secretary determines that possession of ex-
 13 plosives by the responsible person or the employee would
 14 be unlawful under section 842(i), the Secretary shall notify
 15 the employer in writing or electronically of the determina-
 16 tion and issue to the responsible person or the employee,
 17 as the case may be, a document that—

18 “(i) confirms the determination;

19 “(ii) explains the grounds for the determination;

20 “(iii) provides information on how the disability
 21 may be relieved; and

22 “(iv) explains how the determination may be ap-
 23 pealed.”.

24 (i) *EFFECTIVE DATE.*—

1 (1) *IN GENERAL.*—*The amendments made by*
 2 *this section shall take effect 180 days after the date*
 3 *of enactment of this Act.*

4 (2) *EXCEPTION.*—*Notwithstanding any provision*
 5 *of this Act, a license or permit issued under section*
 6 *843 of title 18, United States Code, before the date of*
 7 *enactment of this Act, shall remain valid until that*
 8 *license or permit is revoked under section 843(d) or*
 9 *expires, or until a timely application for renewal is*
 10 *acted upon.*

11 **SEC. 3. PERSONS PROHIBITED FROM RECEIVING OR POS-**
 12 **SESSING EXPLOSIVE MATERIALS.**

13 (a) *DISTRIBUTION OF EXPLOSIVES.*—*Section 842(d) of*
 14 *title 18, United States Code, is amended—*

15 (1) *in paragraph (5), by striking “or” at the*
 16 *end;*

17 (2) *in paragraph (6), by striking the period at*
 18 *the end and inserting “or who has been committed to*
 19 *a mental institution;”;* and

20 (3) *by adding at the end the following:*

21 “(7) *is an alien, other than an alien who—*

22 “(A) *is lawfully admitted for permanent*
 23 *residence (as defined in section 101 (a)(20) of the*
 24 *Immigration and Nationality Act); or*

1 “(B) is in lawful nonimmigrant status, is a
2 refugee admitted under section 207 of the Immi-
3 gration and Nationality Act (8 U.S.C. 1157), or
4 is in asylum status under section 208 of the Im-
5 migration and Nationality Act (8 U.S.C. 1158),
6 and—

7 “(i) is a foreign law enforcement offi-
8 cer of a friendly foreign government enter-
9 ing the United States on official law en-
10 forcement business, and the shipping, trans-
11 porting, possession, or receipt of explosive
12 materials is in furtherance of this official
13 law enforcement;

14 “(ii) is a person having the power to
15 direct or cause the direction of the manage-
16 ment and policies of a corporation, partner-
17 ship, or association licensed pursuant to
18 section 843(a), and the shipping, trans-
19 porting, possession, or receipt of explosive
20 materials is in furtherance of such power;

21 “(iii) is a member of a North Atlantic
22 Treaty Organization (NATO) or other
23 friendly foreign military force (whether or
24 not admitted in a nonimmigrant status)
25 who is present in the United States under

1 *military orders for training or other mili-*
2 *tary purpose authorized by the United*
3 *States, and the shipping, transporting, pos-*
4 *session, or receipt of explosive materials is*
5 *in furtherance of the military purpose; or*

6 *“(iv) is lawfully present in the United*
7 *States in cooperation with the Director of*
8 *the Central Intelligence Agency;*

9 *“(8) has been discharged from the armed forces*
10 *under dishonorable conditions;*

11 *“(9) having been a citizen of the United States,*
12 *has renounced the citizenship of that person;*

13 *“(10) is subject to a court order that—*

14 *“(A) was issued after a hearing of which*
15 *such person received actual notice, and at which*
16 *such person had an opportunity to participate;*

17 *“(B) restrains such person from harassing,*
18 *stalking, or threatening an intimate partner of*
19 *such person or child of such intimate partner or*
20 *person, or engaging in other conduct that would*
21 *place an intimate partner in reasonable fear of*
22 *bodily injury to the partner or child; and*

23 *“(C)(i) includes a finding that such person*
24 *represents a credible threat to the physical safety*
25 *of such intimate partner or child; or*

1 “(ii) by its terms explicitly prohibits the
 2 use, attempted use, or threatened use of physical
 3 force against such intimate partner or child that
 4 would reasonably be expected to cause bodily in-
 5 jury; or

6 “(11) has been convicted in any court of a mis-
 7 demeanor crime of domestic violence.”.

8 (b) *POSSESSION OF EXPLOSIVE MATERIALS*.—Section
 9 842(i) of title 18, United States Code, is amended—

10 (1) in paragraph (3), by striking “or” at the
 11 end; and

12 (2) by inserting after paragraph (4) the fol-
 13 lowing:

14 “(5) who is an alien, other than an alien who—

15 “(A) is lawfully admitted for permanent
 16 residence (as that term is defined in section
 17 101(a)(20) of the Immigration and Nationality
 18 Act); or

19 “(B) is in lawful nonimmigrant status, is a
 20 refugee admitted under section 207 of the Immi-
 21 gration and Nationality Act (8 U.S.C. 1157), or
 22 is in asylum status under section 208 of the Im-
 23 migration and Nationality Act (8 U.S.C. 1158),
 24 and—

1 “(i) is a foreign law enforcement offi-
2 cer of a friendly foreign government enter-
3 ing the United States on official law en-
4 forcement business, and the shipping, trans-
5 porting, possession, or receipt of explosive
6 materials is in furtherance of this official
7 law enforcement;

8 “(ii) is a person having the power to
9 direct or cause the direction of the manage-
10 ment and policies of a corporation, partner-
11 ship, or association licensed pursuant to
12 section 843(a), and the shipping, trans-
13 porting, possession, or receipt of explosive
14 materials is in furtherance of such power;

15 “(iii) is a member of a North Atlantic
16 Treaty Organization (NATO) or other
17 friendly foreign military force (whether or
18 not admitted in a nonimmigrant status)
19 who is present in the United States under
20 military orders for training or other mili-
21 tary purpose authorized by the United
22 States, and the shipping, transporting, pos-
23 session, or receipt of explosive materials is
24 in furtherance of the military purpose; or

1 “(iv) is lawfully present in the United
2 States in cooperation with the Director of
3 the Central Intelligence Agency;

4 “(6) who has been discharged from the armed
5 forces under dishonorable conditions;

6 “(7) who, having been a citizen of the United
7 States, has renounced the citizenship of that person;

8 “(8) who is subject to a court order that—

9 “(A) was issued after a hearing of which
10 such person received actual notice, and at which
11 such person had an opportunity to participate;

12 “(B) restrains such person from harassing,
13 stalking, or threatening an intimate partner of
14 such person or child of such intimate partner or
15 person, or engaging in other conduct that would
16 place an intimate partner in reasonable fear of
17 bodily injury to the partner or child; and

18 “(C)(i) includes a finding that such person
19 represents a credible threat to the physical safety
20 of such intimate partner or child; or

21 “(ii) by its terms explicitly prohibits the
22 use, attempted use, or threatened use of physical
23 force against such intimate partner or child that
24 would reasonably be expected to cause bodily in-
25 jury; or

1 “(9) who has been convicted in any court of a
2 misdemeanor crime of domestic violence.”.

3 **SEC. 4. REQUIREMENT TO PROVIDE SAMPLES OF EXPLO-**
4 **SIVE MATERIALS AND AMMONIUM NITRATE.**

5 Section 843 of title 18, United States Code, as amend-
6 ed by this Act, is amended by adding at the end the fol-
7 lowing:

8 “(i) *FURNISHING OF SAMPLES.*—

9 “(1) *IN GENERAL.*—Licensed manufacturers and
10 licensed importers and persons who manufacture or
11 import explosive materials or ammonium nitrate
12 shall, when required by letter issued by the Secretary,
13 furnish—

14 “(A) samples of such explosive materials or
15 ammonium nitrate;

16 “(B) information on chemical composition
17 of those products; and

18 “(C) any other information that the Sec-
19 retary determines is relevant to the identification
20 of the explosive materials or to identification of
21 the ammonium nitrate.

22 “(2) *REIMBURSEMENT.*—The Secretary may, by
23 regulation, authorize reimbursement of the fair mar-
24 ket value of samples furnished pursuant to this sub-
25 section, as well as the reasonable costs of shipment.”.

1 **SEC. 5. DESTRUCTION OF PROPERTY OF INSTITUTIONS RE-**
 2 **CEIVING FEDERAL FINANCIAL ASSISTANCE.**

3 *Section 844(f)(1) of title 18, United States Code, is*
 4 *amended by inserting before the word “shall” the following:*
 5 *“or any institution or organization receiving Federal fi-*
 6 *nancial assistance,”.*

7 **SEC. 6. RELIEF FROM DISABILITIES.**

8 *Section 845(b) of title 18, United States Code, is*
 9 *amended to read as follows:*

10 *“(b) RELIEF FROM DISABILITIES.—*

11 *“(1) PROHIBITED PERSONS.—*

12 *“(A) IN GENERAL.—Except as provided in*
 13 *paragraph (2), a person who is prohibited from*
 14 *engaging in activity under section 842 may*
 15 *make application to the Secretary for relief from*
 16 *the disabilities imposed by Federal law with re-*
 17 *spect to a violation of that section, and the Sec-*
 18 *retary may grant that relief, if the Secretary de-*
 19 *termines that—*

20 *“(i) the circumstances regarding the*
 21 *disability, and the record and reputation of*
 22 *the applicant are such that the applicant*
 23 *will not be likely to act in a manner dan-*
 24 *gerous to public safety; and*

25 *“(ii) that the granting of the relief will*
 26 *not be contrary to the public interest.*

1 “(B) *PETITION FOR JUDICIAL REVIEW.*—
2 *Any person whose application for relief from dis-*
3 *abilities under this section is denied by the Sec-*
4 *retary may file a petition with the United States*
5 *district court for the district in which that per-*
6 *son resides for a judicial review of the denial.*

7 “(C) *ADDITIONAL EVIDENCE.*—*The court*
8 *may, in its discretion, admit additional evidence*
9 *where failure to do so would result in a mis-*
10 *carriage of justice.*

11 “(D) *FURTHER OPERATIONS.*—*A licensee or*
12 *permittee who conducts operations under this*
13 *chapter and makes application for relief from the*
14 *disabilities under this chapter, shall not be*
15 *barred by that disability from further operations*
16 *under the license or permit of that person pend-*
17 *ing final action on an application for relief filed*
18 *pursuant to this section.*

19 “(E) *NOTICE.*—*Whenever the Secretary*
20 *grants relief to any person pursuant to this sec-*
21 *tion, the Secretary shall promptly publish in the*
22 *Federal Register, notice of that action, together*
23 *with reasons for that action.*

24 “(2) *WAIVER FOR LAWFUL NONIMMIGRANTS.*—

1 “(A) *CONDITIONS FOR WAIVER.*—Any indi-
 2 vidual who has been admitted to the United
 3 States in a lawful nonimmigrant status may re-
 4 ceive a waiver from the requirements of sub-
 5 section (d)(7) or (i)(5) of section 842, if—

6 “(i) the individual submits to the Sec-
 7 retary a petition that meets the require-
 8 ments of subparagraph (C); and

9 “(ii) the Secretary approves the peti-
 10 tion.

11 “(B) *PETITION.*—Each petition submitted
 12 in accordance with this subsection shall—

13 “(i) demonstrate that the petitioner has
 14 resided in the United States for a contin-
 15 uous period of not less than 180 days before
 16 the date on which the petition is submitted
 17 under this paragraph; and

18 “(ii) include a written statement from
 19 the embassy or consulate of the petitioner,
 20 authorizing the petitioner to acquire explo-
 21 sives and certifying that the alien would
 22 not, absent the application of subsection
 23 (d)(7) or (i)(5) of section 842, otherwise be
 24 prohibited from such an acquisition under
 25 that subsection (d) or (i).

“(C) *APPROVAL OF PETITION.*—The Secretary may approve a petition submitted in accordance with this paragraph if the Secretary determines that waiving the requirements of subsection (d)(7) or (i)(5) of section 842 with respect to the petitioner—

“(i) would not jeopardize the public safety; and

“(ii) will not be contrary to the public interest.”.

SEC. 7. THEFT REPORTING REQUIREMENT.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

“(p) *THEFT REPORTING REQUIREMENT.*—

“(1) *IN GENERAL.*—A holder of a license, user permit, or limited user permit who knows that explosive materials have been stolen from that licensee, user permittee, or limited user permittee, shall report the theft to the Secretary not later than 24 hours after the discovery of the theft.

“(2) *PENALTY.*—A holder of a license, user permit, or limited user permit who does not report a theft in accordance with paragraph (1), shall be fined not more than \$10,000, imprisoned not more than 5 years, or both.”.

1 **SEC. 8. APPLICABILITY.**

2 *Nothing in this Act shall be construed to affect the ex-*
3 *ception in section 845(a)(4) (relating to small arms ammu-*
4 *munition and components of small arms ammunition) or sec-*
5 *tion 845(a)(5) (relating to commercially manufactured*
6 *black powder in quantities not to exceed 50 pounds intended*
7 *to be used solely for sporting, recreational, or cultural pur-*
8 *poses in antique firearms) of title 18, United States Code.*

9 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

10 *There is authorized to be appropriated such sums as*
11 *necessary to carry out this Act and the amendments made*
12 *by this Act.*

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107TH CONGRESS
2^D SESSION

S. 1956

A BILL

To combat terrorism and defend the Nation against
terrorist attacks, and for other purposes.

JUNE 13, 2002

Reported with an amendment